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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160920861-8999-04]

RIN 0648-XE900

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; 2019

Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We are finalizing specifications for the 2019 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings limit. This action is necessary to fully implement previously projected allowable red crab harvest levels that will prevent overfishing and allow harvesting of optimum yield. This action is intended to establish the allowable 2019 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan.

DATES: The final specifications for the 2019 Atlantic deep-sea red crab fishery are effective March 1, 2019, through February 28, 2020.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council. The Atlantic Deep-Sea Red Crab Fishery Management Plan includes a specification process that requires the New England Fishery Management Council to recommend, on a triennial basis, an acceptable biological catch, an annual catch limit, and total allowable landings. Collectively, these are the red crab specifications. Prior to the start of fishing year 2017, the Council recommended specifications for the 2017-2019 fishing years (Table 1).

Table 1 -- Council-Approved 2017-2019 Red Crab Specifications

	Metric ton	Million lb
Acceptable Biological Catch	1,775	3.91
Annual Catch Limit	1,775	3.91
Total Allowable Landings	1,775	3.91

On February 22, 2017, we approved status quo specifications for the 2017 fishing year, effective through February 28, 2018, and we projected status quo quotas for 2018-2019 (82 FR 11322). At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.262(b) require a pound-for-pound reduction in a subsequent fishing year. We have reviewed available 2018 fishery information against the projected 2019 specifications. There have been no annual catch limit or total allowable landings overages, nor is there any new biological information that would require altering the projected 2019 specifications published in 2017. Because no overages occurred in 2018, we are finalizing specifications for fishing year 2019, as projected in the 2017 specifications rule (82 FR 11322), and outlined above in Table 1. These specifications are not expected to result in overfishing and adequately account for scientific uncertainty. This is the final year of these specifications, and new specifications will be developed by the Council for 2020 and beyond.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This rule is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), we find good cause to waive prior public notice and opportunity for public comment on the catch limit and allocation adjustments, because allowing time for notice and comment is unnecessary. The proposed rule for the 2017-2019 specifications provided the public with the opportunity to comment on the specifications, including the projected 2018 and 2019 specifications (81 FR 86687, December 1, 2016). We received no comments on the proposed rule announcing the projected 2017-2019 specification and the process for announcing finalized interim year quotas. Further, this final rule contains no changes from the projected 2019 specifications that were included in both the December 1, 2016, proposed rule and the February 22, 2017, final rule. The public and industry participants expect this action, because previously, in both the proposed rule and the final rule, we alerted the public that we would conduct a review of the latest available catch information in each of the interim years of the multi-year specifications, and announce the final quota prior to the March 1 start of the fishing year. Thus, the proposed and final rules that contained the projected 2017-2019 specifications provided a full opportunity for the public to comment on the substance and process of this action.

The Chief Counsel for Regulation, Department of Commerce, previously certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that the 2017-2019 red crab specifications would not have a significant economic impact on a substantial number of small entities.

Implementing the 2019 specifications will not change the conclusions drawn in that previous certification to the SBA. Because advance notice and the opportunity for public comment are not required for this action under the Administrative Procedure Act, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply to this rule. Therefore, no new regulatory flexibility analysis is required and none has been prepared.

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 19, 2018.

Donna S. Wieting,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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